DETAILED ACTION

Status of Claims

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claim 1-18, drawn to an Incentive system to generate a bonus credit program for enabling a cross promotional program for buyers at a fixed-price sale. Class 705, subclass 14, distribution or redemption of coupon, or incentive or promotion program.

   II. Claim 19-30, drawn to a Bidding system to generate a bonus credit program for enabling an auction. Class 705, subclass 37, trading, matching, or bidding.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claims 19-30 are related to a bidding subsystem. The subcombination has separate utility such as a store credit management subsystem for use in conjunction with a network base market venue.

3. The Examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Election/Restrictions

1. Claims 19-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant elected claims 1-18 with traverse in December 12/2007 telephone conversation.

Claim Rejections - 35 USC § 102

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1, 2, 6, 8, 10, 11, 15 and 17 rejected under 35 U.S.C. 102(e) as being anticipated by US 6,937,995 Kepecs.

As to claim 1 and 10, Kepecs1 discloses the invention as claimed, including a bonus store credit web site and a method for facilitating a bonus store credit program (**Abstract, Col 4, lines 45-50, Col 9, lines 42-53**) involving a seller computer and a buyer computer connected via a network to a market venue (**Fig 1,2**,**Col 4, lines 24-28, Abstract**), said bonus store credit web site configured to: (a) implement a process for said seller computer to propose a bonus store credit to said buyer computer by means of a displayed instruction on a selling page at said market venue, (**Col 2, lines 42-45, Col 3, lines 64-66, Col 4 , lines 24-28**), (b) determine a bonus store credit amount by applying said displayed instruction to a first transaction completed by said buyer computer and said seller computer at said market venue, (**Col 3, lines 64-67, Col 4,**

lines 1-14) (c) validate said bonus store credit amount to said buyer computer by sending at least one message to said buyer, said buyer automatically receiving a notification of said bonus store credit amount if said buyer's first transaction with said seller satisfies requirements outlined in said displayed instructions (**Col 9, 1-10, Col 9,line 54 to Col 10, line 17**) **.**

As to claim 2 and 11, Kepecs discloses a web site that validates an availability of said bonus store credit amount for use in a second transaction by said buyer computer and said seller computer by identifying a buyer computer's completed said second transaction from said seller computer. (**Col 9, 18-40, Col 10, 12-17**).

As to claim 6 and 15, Kepecs1 discloses the invention substantially as claimed. Including a web site that receives notification by means of a message from said buyer computer indicating an exercise (redeeming electronic promotions) of said bonus store credit amount in a second transaction with said seller computer (**Claim 1,Col 9, lines 18-40**).

As to claim 8 and 17, Kepecs1 discloses that the network is the Internet (**Col 8, lines 18-19).**

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 3, 5, 7, 9, 12, 14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,937,995 Kepecs here and after referred as Kepecs1 in view of 6,389,401 Kepecs here and after referred as Kepecs2 .

As to claim 3 and 12, Kepecs1 discloses the invention as claimed. See the discussion of claim 1. Kepecs1 does not specifically disclose the notification from web site to the buyer and seller computer with one message or more. Kepecs2 discloses, a web site that notifies buyer and seller with at least one message of said bonus store credit amount following said second transaction (**Claims 1-4 and Col 4 line 1 to Col 5, line 24**). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the message with the discount of Kepecks2 in the invention of Kepecs1 because the method of access for buyers and sellers is the internet.

As to claim 5 and 14, Kepecs1 discloses the invention substantially as claimed. See the discussion of claim 1. Kepecs1 teaches the discounter providing information on

discounts (**Col 9, lines 18-40**). Kepecs1 does not specifically teach the relay task. Kepecks2 discloses a step to sending a promoting email to a consumer (**Claim 3 and Col 4, line 1 to Col 5, line 24**). It would have been obvious for one of ordinary skill in the art at the time of the invention to include the relay of the credit amount with any open seller listing taught by Kepecs2 in the invention of Kepecs1 because the method of access for buyers and sellers is the internet as communication network.

As to Claim 7 and 16, Kepecs1 discloses the invention substantially as claimed. See the discussion of claim 1. Kepecs1 does not specifically disclose the message that notifies the validity of the bonus store credit amount in subsequent transactions. Kepecs2 discloses about a method to extending promotional discounts on items for sale that comprises an e-mail transmission to an identified consumer (**Claims 1-4, Col 4, line 1 to Col 5, line 24**). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include the discount amount in the notification in a subsequent transaction because the consumer discount or promotional information could facilitate the consumer transaction over the internet.

As to claim 9 and 18, Kepecs1 discloses the invention substantially as claimed. See the discussion of claim 1. Kepecs1 does not specifically discloses that at least one message is sent by electronic mail. Kepecs2 discloses a promoting step that comprises direct email to an identified consumer (**Claim 3 and Col 4, line 1 to Col 5, line 24**). Therefore it would have been obvious to one of ordinary skill in the art at the time of the

invention to include the email notification in a subsequent transaction because the method of access for buyers and sellers is the internet as communication network.

Claim 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,937,995 Kepecs 1 in view of 6,389,401 Kepecs2 further in view of 6,714,933 Musgrove et al.

As to claim 4, Kepecs1 discloses the invention substantially as claimed. See the discussion of claim 1. Kepecs1 does not specifically teach the software polling process. Musgrove et al teaches buyer points, other benefits and discounts if a shopper is purchasing directly from a merchant server. His invention also incorporates a method of extracting product information from a plurality of sources using a crawler at (**Col 4, lines 28-62, Col 6, lines 30-48, Col 8 lines 42-51**) . Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include the polling process taught by Musgrove in the invention of Kepecs1 because crawler and polling techniques have been very well known and effective techniques for gathering information from websites.

As to claim 13, see the rejection of claim 10 and 4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA VANDERHORST whose telephone number

is (571)270-3604. The examiner can normally be reached on Monday through Friday 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maria Victoria Vanderhorst/
Examiner, Art Unit 4194
/V. V./
12/19/2007

/Charles Kyle/
Supervisory Patent Examiner, Art Unit 4194